

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

CYNTHIA B. SCOTT, *et al.*,)
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)
Plaintiffs,)
) Case No. 3:12-cv-00036-NKM
v.) Sr. Judge Norman K. Moon
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HAROLD W. CLARKE, *et al.*,)
)
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Defendants.)
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_____)

DECLARATION OF TONI N. HARTLOVE

1. I am a 68 year old African American woman who is incarcerated at Fluvanna Correctional Center for Women (FCCW). I have personal knowledge of the facts in this declaration.

2. I have been incarcerated at Fluvanna Correctional Center for Women since December 1, 1999, and my scheduled date of release is December 2027. I live in building 1C.

3. During my incarceration at FCCW, I have suffered or currently suffer from serious health problems and physical ailments including, without limitation, a seizure disorder, and I also suffer from back, hip *and breasts J.H.* and knee problems.

4. I am a named Plaintiff and I testified in the Fairness Hearing in November 2015. I have worked with my attorneys to improve the quality of medical care. Although there have been some improvements, FCCW still does not provide the medical care required in the Settlement Agreement.

5. One good thing that has happened is I had back surgery in December 2015. After the surgery, I spent one month in the Infirmary. They gave me physical therapy and I tried to walk. But my hips and knees went out. The doctor even tried to squeeze my knee into a brace that was much too small.

6. In 1999 I walked into FCCW. I worked and went to school. After about 15 years of regular activity, I had to begin using a wheelchair. I told the doctors at FCCW I do not want

to ride in a wheelchair the rest of my time here and when I leave. I want to be independent. I want to be able to walk around from one place to another.

7. I suffer pain in my hips and legs. I get Naproxen for the pain but it is too weak to relieve the pain. I am concerned about the large number of pills I take without the doctors suggesting alternative treatments. When I tried to raise the issue of how I can walk again with Dr. Kamal, he just wanted to give me pills. When I have asked for physical therapy, they won't give it to me. I do exercises on my own using *my walker J.W.* but I need instruction to accomplish much.

8. I first began having seizures following a traffic accident in 1969. When I have seizures, I become comatose and I am unable to communicate. The seizures make me foggy. My brain stops working. I breathe hard and I can't respond when someone speaks to me. I am aware of most of what is going on, but I don't understand the questions people are asking. It takes a while before I am again alert. I have a painful headache if I have hit my head when I fall.

9. For many years before I came to FCCW, I took Dilantin and Phenobarbital to control my seizures. Both are anti-seizure medicines. I have continued to take those medicines since I came to FCCW.

10. About two months before Thanksgiving in 2016, I could not keep my eyes open and kept falling asleep in the middle of the dayroom while sitting in my wheelchair. This happened when I had gotten plenty of sleep the night before, and I knew of no reason to be so sleepy. I complained to medical that I felt drunk much of the time. I told all the nurses in our building that I was "high" and I also told the doctor. To treat this the FCCW doctors increased my Dilantin. No one at FCCW suggested that I needed regular lab tests to check the level of Dilantin.

11. The day after Thanksgiving, as I stood up out of my wheelchair to do some laundry, I tumbled over and blacked out. When people around me said something, I could not respond.

12. FCCW staff took me to the Infirmary in my wheelchair. Dr. Gable examined me and said I needed to go to the University of Virginia hospital (UVA) Emergency Room. They sent me in an ambulance.

13. The UVA doctors told me that the Dilantin was at a toxic level. The doctor said the Dilantin is a dangerous drug and has to be carefully and regularly monitored. He said they

would keep me at UVA until they could bring the toxicity levels down. I stayed at UVA until the Monday after Thanksgiving.

14. While I was at UVA, the FCCW officers kept the handcuffs and shackles on me even when the doctors asked them to take off the cuffs. The officers would say they couldn't do that.

15. I did not have privacy when my UVA doctors talked to me. The FCCW officers sat right there and listened to everything: my history and all my medical problems. I believe when they returned to FCCW, they also discussed my private medical issues with other FCCW staff. When I returned I got indirect comments from other staff. Their comments meant to me they had heard about my medical issues from the officers who listened when I talked to my doctors at UVA.

16. When I was being discharged from UVA, the doctor said he was sending a note with me telling the FCCW doctors to modify my Dilantin dosage. The officer escorting me took the discharge papers and I could not see them. No one at FCCW gave me a copy. My Legal Aid lawyer, Abigail Turner, showed me my UVA discharge papers about Patient Education which says my dosage should be 200 mg. twice a day. I do not understand why FCCW refuses to give me a copy of the UVA documents which are clearly meant for me. The hospital names them "Patient Education." I am the patient but FCCW does not want me to know about my medical treatment.

17. When I cannot have a copy of that information, I am left in the dark. I don't know what has been prescribed or about any special orders. When I return from UVA, the procedure is that I go to the Infirmary to get my vitals taken. I hardly ever see a doctor. I feel it is dangerous to send me back to my wing without knowing what UVA may have ordered—equipment, physical therapy or medicines.

18. I hold the FCCW medical staff responsible for the incorrect diagnosis about the toxic levels of Dilantin. I should not have suffered or needed to go to UVA to learn about that toxicity.

19. Since I went to UVA hospital, I have gotten the Dilantin regularly at FCCW. But they have not been renewing the prescription for Phenobarbital on time. In March 2017, they ran out of my Phenobarbital. I have been on chronic care for seizures since my entry in 1999. For the diseases, covered in chronic care, the medicines are supposed to be automatically renewed

and I do not have to pay co-pays. It took five days for them to get a phenobarbital renewal and get the pills started again. I just do not understand how they could be so negligent with my health.

20. The UVA doctors also said I needed to have regular blood tests at FCCW to monitor the Dilantin levels. That has not happened. I should not have to initiate lab tests for the Dilantin levels. One time, I had to ask the lab lady two times to get the blood work done. Other times I feel like I have had to become a nuisance to get the testing done.

21. On April 13, 2017, I learned that the lab results were abnormal. I inquired with the nurse in the building and with the lab lady about seeing a doctor regarding the abnormal results. ~~I~~ took several weeks before I could see a doctor.

22. In several ways, I think the medical care at FCCW is getting worse, not better. The medical staff here seem not to care that I cannot walk or that my health has deteriorated. We are not getting accurate diagnoses and treatment. I and about 75% of the prisoners I have talked to think Dr. Kamal has poor skills in diagnosis and treatment. He most often gives a diagnosis of overweight. His professional manner is hurry to get you in and out. He does not concentrate on what I am trying to tell him.

23. Both the time it takes to get to see a nurse for sick call and the time for seeing a provider have gotten longer. With other contractors, I never had to wait 10 days before sick call. I got to see a provider in three to five days if it took that long.

24. Medicines are not on time and are not renewed correctly much of the time. Pill lines are now often late in my building; the nurses do not pull the right medicines; they do not renew prescriptions on time. I don't understand why when they are using the computers to pull the pills, they cannot be accurate. In pill line, I hear other prisoners often asking about medicines which are missing. I think part of the problem with late pill lines is we get new nurses a lot and some of them are temporary. When a nurse gets trained, they move her to another building. I think the pill line worked better for my building when it was centralized out of building 2, where medical is located.

25. I thought the purpose of moving the nurses from the medical building to the living areas was to make them available for us, including for them to provide information. They take so long to prepare the pills for the cart for pill line that we can't ask them for help or a medical

question. In the middle of the day, if I push the call button to the officer's station and say I need to see a nurse, the officer frequently responds that the nurse is pulling meds.

26. I have to pay co-pays for sick call and for medicines which are not part of my chronic care. I don't have \$5.00 for a sick call. My mother is dead and my sister is often in dire financial straits. I work as a laundry tech, washing other prisoners' clothes. I work 30 hours a week and I earn 35¢ an hour, or \$10.50 per week.

27. FCCW carries my unpaid co-pays on my account for a long time. If my sister occasionally gives me money, FCCW takes that money for the co-pays. So it ~~upsets~~^{S.A.} me to pay \$5.00 to go to Dr. Kamal for a diagnosis only to be told I am overweight.

28. I feel that FCCW no longer provides activities to occupy our minds. I understand that having challenging activities helps with brain health and helps keep our bodies and minds in shape. Significant activities reduce stress and pent up frustrations, which I see in prisoners every day. I have talked with Warden Dillman about the need to use activities as incentives for good behavior—to use pent up energy particularly for the younger prisoners. We now have a big drug problem with prisoners; more fights happen; and staff write more discipline tickets.

29. We are supposed to get recreation seven days a week for at least one hour a day. But recreation now depends on the numbers of officers available and their moods. Also, the time for recreation is usually at 7:00 or 7:30 a.m. so that women getting ready to go to work or school don't get to go. When Wardens Hobbs and Huffman were here, we used to be able to walk around the track daily and to have night recreation daily. Now the building goes for night recreation only one day per week.

30. Under Warden Hobbs we had "fun day" with competition in softball and basketball between the wings and with other buildings. Participating in fun day required us to be without a disciplinary ticket for 3 to 6 months. These incentives encouraged good behavior and promoted better physical and mental health.

31. I am very concerned about the lack of quality medical treatment not only for me but for other women.

I declare under penalty of perjury that these facts are true to the best of my knowledge.

5-31-17

Date

Toni N. Hartlove

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